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05 UNITED STATES DISTRICT COURT  
06 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

07 UNITED STATES OF AMERICA, )  
08 Plaintiff, ) CASE NO. CR20-092 JCC  
09 v. )  
10 ALAN GOMEZ MARENTES, ) ORDER DENYING REQUEST TO  
11 Defendant. ) REOPEN DETENTION ORDER  
12 \_\_\_\_\_ )

13 This matter comes before the Court on Defendant's motion to reopen his detention  
14 hearing. Dkt. 494. Defendant waived a detention hearing at the time of his arrest and has  
15 been detained pending trial. Dkt. 131. He now seeks a detention hearing, asking the Court  
16 to consider allegedly new facts relating to his medical condition. Dkt. 494 at 3–4.  
17 Defendant admits that his medical condition was known at the time he waived his right to a  
18 detention hearing, but argues that he was not aware of an alleged deficiency in the medical  
19 treatment he would receive while detained, and, on this basis, argues that holding a detention  
20 hearing is warranted. *Id.* at 3–5. The government opposes the motion. Dkt. 502. The  
21 District Court found that the information regarding Defendant's access to medical treatment  
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01 while incarcerated may not have been information that was available to Defendant at the time  
02 of his detention hearing, but referred to this Court the question of whether it has a “material  
03 bearing on the issue [of] whether there are conditions of release that will reasonably assure the  
04 appearance of [Defendant] as required and the safety of any other person and the community.”  
05 18 U.S.C. § 3142(f)(2).

06 The Court has considered the pleadings filed in support of and in opposition to the  
07 motion and the remainder of the file and hereby DENIES the motion for the reasons stated  
08 herein.

#### 09 **PROCEDURAL AND FACTUAL BACKGROUND**

10 On July 24, 2020, Defendant was indicted on the following counts: Conspiracy to  
11 Distribute Controlled Substances (Count 1), in violation of Title 21, United States Code,  
12 Sections 841(a)(1) and 841(b)(1)(A); Possession with Intent to Distribute Methamphetamine  
13 (Count 2), in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A);  
14 and Conspiracy to Commit Money Laundering (Count 4), in violation of Title 18, United  
15 States Code, Section 1956(h). Dkt. 1. He made his first appearance before the Honorable  
16 Brain A. Tsuchida on July 29, 2020, and the government filed a motion for detention, as well  
17 as an Omnibus Detention Motion. Dkts. 90, 79. On August 4, 2020, the defendant filed a  
18 Stipulation and Waiver of Detention Hearing. Dkt. 131. On August 6, 2020, the Honorable  
19 Mary Alice Theiler ordered the defendant detained pending trial and issued a detention order,  
20 stating:

21 Defendant’s criminal record includes a prior drug trafficking conviction  
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01 from the Eastern District of Washington. After his release from prison,  
02 defendant was deported to Mexico. Defendant is alleged to be a leader of  
this drug conspiracy. He is a native and citizen of Mexico without legal  
status in the United States.

03 The Court noted that the Defendant was not contesting detention, and concluded that under 18  
04 U.S.C. § 3142(f), “no condition or combination of conditions which defendant can meet will  
05 reasonably assure the appearance of defendant as required and the safety of other persons and  
06 the community.” Dkt. 150.

07 On March 31, 2021, the Grand Jury returned a second superseding Indictment charging  
08 the defendant with the same counts, in addition to Possession with Intent to Distribute  
09 Methamphetamine and Heroin (Count 5), in violation of Title 21, United States Code, Sections  
10 841(a)(1) and 841(b)(1)(A). Dkt. 378. An order continuing detention was filed on April 1,  
11 2021. Arraignment was held on April 15, 2021, and the defendant entered not guilty pleas.  
12 Dkt. 463. Trial is scheduled for October 4, 2021. *Id.*

### 13 DISCUSSION

14 The Court may reopen a detention hearing “if the judicial officer finds that  
15 information exists that was not known to the movant at the time of the hearing and that has a  
16 material bearing on the issue whether there are conditions of release that will reasonably  
17 assure the appearance of such person as required and the safety of any other person and the  
18 community.” 18 U.S.C. § 3142(f)(2).

19 Assuming, as the District Court instructs, that the Defendant has demonstrated that the  
20 information regarding his alleged deficient medical treatment while detained was unknown to  
21 him at the time of his arrest, the Court considers whether that information is material to the  
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01 determination of risk of flight and danger to the community.

02       The United States typically bears the burden of showing that defendant poses a danger  
03 to the community by clear and convincing evidence, and it bears the burden of showing that a  
04 defendant poses a flight risk by a preponderance of the evidence. *United States v. Gebro*,  
05 948 F.2d 1118, 1120 (9th Cir. 1991). However, the Bail Reform Act expressly provides that:

06       [s]ubject to rebuttal by the person, it shall be presumed that no  
07 condition or combination of conditions will reasonably assure the  
08 appearance of the person as required and the safety of the  
09 community if the judicial officer finds that there is probable cause  
10 to believe that the person committed an offense for which a  
11 maximum term of imprisonment of ten years or more is prescribed  
12 in the Controlled Substances Act (21 U.S.C. 801 et seq.) . . . or an  
13 offense under section 924(c) . . . of title 18 of the United States Code  
14 . . .  
15 18 U.S.C. § 3142(e).

16       In this case, the Defendant does not challenge the findings of Magistrate Judge Mary  
17 Alice Theiler in the Detention Order that Defendant's criminal record included a prior drug  
18 trafficking conviction from the Eastern District of Washington, that because he was without  
19 legal status in the United States defendant was deported to Mexico after his release from  
20 prison, and that Defendant was alleged to be a leader of the drug conspiracy. Dkt. 150. The  
21 only change in circumstance alleged by Defendant is that his leg injury, which occurred prior  
22 to his arrest, requires medical treatment but that "nothing [is being] done about it". Dkt. 494  
at 5. The medical record belies this contention. Although immediate access to potential  
surgical options may have been limited thus far by Defendant's detention, the record  
demonstrates an ongoing effort by BOP staff to address Defendant's medical needs, including  
pain management and referrals to specialists to assess surgical intervention options. For

01 example, just prior to filing this motion, Defendant reported that application of lidocaine  
02 patches left to him by a departing cellmate had given him significant relief from pain. Def.  
03 Sealed Exhibit 1 at 2. As a result, on April 27, 2021, the BOP physician instituted a trial of  
04 meloxicam, Tylenol and the lidocaine patches, and also requested his x-rays be updated. *Id.*  
05 at 8. During that visit, Defendant reported the pain associated with his leg fracture was  
06 “10/10 when putting full w[eigh]t on this leg, but 5/10 today.” *Id.* at 3. On May 3, 2021,  
07 approximately a week later, Defendant reported that he was “very physically active and  
08 sometimes does burpies. He doesn’t feel his pain hinders his xn [function.]” *Id.* at 2.

09 After Defendant filed his motion, on June 2, 2021, the BOP physician requested that  
10 Harborview reevaluate the Defendant’s request for surgery on his leg and indicated that BOP  
11 would send over Defendant’s complete record, including his recent x-rays. Government  
12 Sealed Exhibit 6 at 1. The BOP physician noted that if Harborview declined to accept the  
13 referral, he would seek a second opinion. *Id.* The record demonstrates that BOP have  
14 continued in their efforts to address Defendant’s leg injury and associated pain. Defendant’s  
15 assertions with regard to his medical treatment are not supported by the record and do not  
16 constitute a basis for reopening the detention hearing. Courts have rejected claimed medical  
17 needs as a basis for release. *See, e.g. United States v. Koenig*, 912 F.2d 1190, 1193 (9th Cir.  
18 1990)(“The evidence of a medical condition presented by Koenig does not indicate an  
19 emergency, or a condition that would necessarily inhibit flight”).

20 The court further finds that Defendant’s allegations do not rise to the level of being  
21 material to the issue of detention or release when considered in light of the facts relevant to  
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01 the 18 U.S.C. § 3142(g) factors<sup>1</sup> discussed below.

02       In its omnibus motion for detention, the government described the defendant as the  
03 leader of the drug trafficking organization, managing numerous other individuals in the  
04 distribution of methamphetamine in the Western District of Washington. Dkt. 79 at 6-9.  
05 According to the government, the Defendant was the intended recipient of large shipments of  
06 methamphetamine, including 78 pounds that was seized on June 5, 2020, at the United States-  
07 Mexico border. Intercepted communications detailed the Defendant's efforts to manage the  
08 processing of large amounts of methamphetamine for distribution at a Port Orchard location.  
09 When an individual was shot there, the Defendant instructed that the location be cleared of  
10 evidence of drug trafficking and asked his sister to change their phone numbers to evade law  
11 enforcement. Investigators subsequently seized the van used to clear out the location and  
12 recovered large amounts of methamphetamine in various stages of processing. *Id.* The  
13 government's motion further details the Defendant's alleged role in organizing the trafficking  
14 of firearms, and threats of violence to others. *Id.* at 8. Defendant is a citizen of Mexico.  
15 His criminal history includes a prior 2006 federal felony conviction in the Eastern District of  
16 Washington for Conspiracy to Distribute Cocaine (24 months' imprisonment and four years'  
17 supervised release).

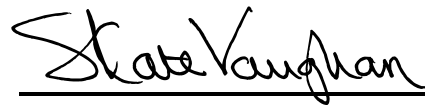
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19 <sup>1</sup> A Court deciding a detention issue is to consider the following factors: (1) the "nature and  
20 circumstances of the offense charged," (2) the "weight of the evidence against" the defendant, (3) the  
21 "history and characteristics" of the defendant, including his "character, physical and mental condition,  
22 past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning  
appearance at court proceedings," and (4) "the nature and seriousness of the danger to any person or  
the community that would be posed by the person's release." 18 U.S.C. § 3142(g).

01 Defendant's criminal history, (involving a prior federal controlled substances felony),  
02 the nature and circumstances of the case (allegedly leading a significant drug trafficking  
03 organization in the processing and distribution of large amounts of methamphetamine, and  
04 related money laundering and firearms trafficking), and his connection to Mexico, establish  
05 that Defendant cannot overcome the presumption that he is both a risk of flight<sup>2</sup> and a danger  
06 to the community.

07 The motion is DENIED.

08 DATED this 14th day of June, 2021.

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11 S. KATE VAUGHAN  
United States Magistrate Judge

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21 <sup>2</sup> Congress has determined that persons charged with major drug offenses often have the foreign ties and  
22 resources necessary to escape with ease, and intended magistrate judges to take account of the general rule that  
drug offenders pose a special risk of flight. *United States v. Rodriguez-Adorno*, 606 F. Supp. 2d 232, 241  
(D.P.R. 2009)(internal citations omitted), citing *United States v. Fortna*, 769 F.2d 243, 251 (5th Cir.1985).